

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	GN Docket Nos.:
Comments Sought on the Role of the)	
Universal Service Fund and)	09-47, 09-51, 09-137
Intercarrier Compensation in the)	
National Broadband Plan)	
NBP Notice # 19)	

**Comments of the
Regulatory Commission of Alaska**

Date: December 7, 2009

Robert M. Pickett, Chairman

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The Regulatory Commission of Alaska (RCA) appreciates the opportunity to file comments in response to the Public Notice¹ released by the Federal Communications Commission (FCC) on November 13, 2009, on the role of the federal universal service fund and intercarrier compensation in the national broadband plan (DA 09-2419).

RESPONSE to QUESTION 1(a): Relative fund size.

It is unrealistic to assume that carriers may take on added broadband duties without increasing their costs or need for universal service funding. New funding would be needed, especially for Alaska middle-mile broadband networks, and with funds provided to non-ETCs.

The Notice asks whether the relative size of funding for each current federal universal support mechanism is appropriate to achieve the

¹ GN Docket No. 09-47, 09-51, 09-137, NBP Notice # 19, DA 09-2419, released November

objective of universalization of broadband.² We believe the answer to this question in regards to Alaska is “No”. To further explain, we require that regulated incumbent local exchange carriers employ their federal high cost loop universal service funds to offset the costs of local services (i.e., “voice” services). These funds are therefore already dedicated to promoting affordability of critical local exchange services in Alaska. If instead the FCC transfers these funds in whole or in part towards deployment of broadband, Alaska local rates by necessity would increase. There is no basis to assume that potential efficiency gains and the incremental cost of deploying broadband are such that broadband could be added to the list of existing universal service obligations without increasing the need for support. Similarly, if Alaska rural health care and school and library support were reduced in efforts to fund broadband, rural clinics and schools and libraries would experience higher effective telecommunications rates.

We do not economically regulate the rates of wireless Eligible Telecommunications Carriers (ETCs) in Alaska, nor have we evaluated whether the amount of funds currently received by these companies would be adequate for them to expand their ETC obligations to include wireless broadband. It is possible that the small population base, remoteness, and arctic conditions in many Alaskan locations may discourage deployment of broadband by wireless

¹³, 2009 (Notice).

² Notice at 1.

means, even in light of current support levels.

Further, high cost support programs are currently funded with little to no consideration of the cost of middle mile facilities necessary to ensure universal availability of broadband in Alaska. As a result, existing universal service funds are inadequate to cover middle mile costs. Broadband middle mile costs in Alaska are likely to be especially expensive given our dependency on expensive satellite communications to connect rural locations to the rest of the network.

Another complexity in Alaska is that the carriers eligible for high cost support are *local exchange carriers* (LECs) and wireless providers while broadband middle mile facilities are typically provided by *interexchange carriers* (IXCs), none of which hold ETC status for their interexchange operations. This may be substantially different from the structure outside of Alaska where intrastate interexchange transport services are often provided by LECs rather than IXCs. In Alaska, a set of carriers different from the current ETCs, would therefore require support for middle mile broadband facilities.

In light of the above, it cannot be assumed that universal service needs, including broadband, can be met by simply redistributing how universal service funding is currently paid to carriers. In addition, limiting broadband support to only ETCs would likely unfairly prevent Alaskans from benefitting from the FCC's broadband plan because the interexchange Carrier of Last Resort

providing middle mile services is not an ETC.

RESPONSE to QUESTION 3: Transitioning current mechanisms to support broadband.

The FCC should not phase out voice high cost support funding and replace it with an undefined, new mechanism that explicitly funds broadband.

The Notice asks how to transition the current universal service high-cost support mechanism to support that advances broadband deployment. One option discussed in the Notice is to supplement the existing high cost program with one or more additional programs that would target funding for broadband deployment in unserved areas.³ Such an option may have merit provided the FCC can prevent carriers from double recovering the same costs through multiple universal service programs.

Under a second option discussed in the Notice, the FCC would gradually reduce funding under the existing high-cost programs over a period of years and transition the funding to a redesigned mechanism that explicitly funds broadband.⁴ Such an approach raises administrative issues. First, in many parts of Alaska there is no broadband provider and no certainty a new entrant would be willing to serve. A transition from the existing programs to a new broadband based program would therefore be problematic under these circumstances.

The second option discussed in the Notice also begs the question

³ Notice at 3.

of how much, if any, of the funding under the new program could be used for voice services. We remain concerned that the jurisdictional ambiguity that results from having a merged fund targeted to broadband will lead to challenges as to our use of those funds to ensure that state voice services remain affordable. This is especially true given the FCC's past decisions that categorize certain broadband services (e.g., DSL) as either interstate or informational services in nature. On this point, local exchange voice services, including access to emergency services, must hold a priority over deployment of broadband. Ambiguity regarding the jurisdictional nature of funding will lead to costly litigation and potential mis-targeting of funds, contrary to the public interest.

The second option should also not be implemented without an understanding of its effects on jurisdictional cost assignment, rate setting, and revenue recovery. For rate of return companies, the allocation of costs between the jurisdictions and between services is a complex process that is not intuitively obvious or easily predictable. This is especially true given that the costs of broadband and voice services for many rate of return companies are governed in part by jurisdictional allocation factors (and at times category relationships) under 47 CFR Part 36 that have been frozen for almost a decade. These jurisdictional procedures assign cost in roughly the same manner as they have

⁴ Notice at 3.

since the 1990's, and with potentially little consideration for how the network may have evolved to provide broadband services. It should not be assumed that a new broadband targeted fund can safely lead to the reduction or elimination of funding for voice services absent an analysis that considers impact on rates.

RESPONSE to QUESTION 3(c): Use of forward-looking cost models.

It may be difficult to develop a forward looking broadband cost model that accurately predicts Alaska costs in many rural areas.

The Notice asks whether the size of any broadband funding mechanism would be appreciably different if support were calculated based on a forward-looking cost model designed to calculate the lowest total cost of ownership on a technology-neutral basis, as opposed to an individual provider submission of actual costs.⁵ On this point, no national model has ever been developed to accurately predict cost of service throughout rural Alaska, especially in light of the factors that affect our cost of service such as rugged terrain, permafrost, lack of road access, remoteness, reliance on satellite and arctic conditions. Modeling Alaska's broadband service could be made even more difficult due to differences in network design compared to other states. In Alaska, there are no LATAs, and as a result the interexchange transport is largely provided by IXCs not LEC ETCs. Because Alaska's network typology is fundamentally different than the standard LATA typology found in other states, we are concerned that any broadband model developed will fail to accurately

consider Alaska costs and network design characteristics. We suggest that use of actual provider costs may be a more realistic solution in our state.

RESPONSE to QUESTION 3(d): Support for operating expenses.

In Alaska, federal cost support may be needed for both broadband operating expenses and capital expenditures.

In Alaska there are roughly 200 remote, low-population, rural locations, most of which are only accessible by air. The extent of permafrost, remoteness, lack of roads, and other factors make reliance on satellite communications a virtual necessity in many of these rural locations. Providing broadband funding only for capital investments as suggested in the Notice⁵ may be inadequate in light of recurring, expensive, satellite transponder costs. On this point we ask that the FCC take into consideration that broadband funding may be needed for operating expenses as well as capital expenditures in high cost areas such as Alaska. Unless and until a terrestrial broadband middle mile network can be built for Alaska, an exclusive focus on capital expenditures is unlikely to provide near-term broadband support to Alaska.

⁵ Notice at 3(c).

⁶ Notice at 3(d).

RESPONSE to QUESTION 4(b): Reducing support in light of broadband competition.

The FCC should not reduce or eliminate high-cost support for carriers in geographic areas where there is at least one competitor offering broadband (using any technology) regardless of whether that competitor receives high-cost support.

The Notice asks what would be the financial impact of reducing or eliminating high-cost support for carriers in geographic areas where there already is at least one competitor offering broadband today that does not receive any high-cost support.⁷ Similarly, the Notice asks what the impact would be of reducing or eliminating support for carriers in areas where multiple competitors offer broadband, with more than one of those providers receiving support.⁸

We predict that reducing or eliminating federal high cost support under the stated circumstances would likely lead to unaffordable local exchange rates and potential Carrier of Last Resort (COLR) failure. First, a competitor may offer broadband to only the core areas of a community that are the least costly to serve. Broadband providers are not obligated to offer ubiquitous voice services. We conclude that there is no certainty that the presence of a broadband provider in an area will ensure there will be voice telephone service for all customers requiring service. Support would therefore still be needed for the COLR to provide ubiquitous voice service.

Second, a competitive broadband provider with facilities may have

⁷ Notice at 4(b).

no interest in providing Plain Ordinary Telephone Service (POTS), and fulfilling all functions of a POTS COLR such as construction of line extensions, access to emergency services, access to interexchange services, equal access, emergency power provisioning, directory services, TRS access, and related services to all customers upon reasonable request. It should not be assumed that the presence of any broadband provider, even one with ubiquitous facilities, is sufficient to ensure that a voice COLR is no longer needed and that funding could now be withdrawn.

RESPONSE to QUESTION 5(a): Should the national broadband plan evaluate COLR obligations in light of competitive changes.

Designation of a local Carrier of Last Resort remains an inherently state function.

The Notice asks whether the national broadband plan should evaluate whether COLR obligations should be revisited in light of the changing competitive landscape.⁹ The Notice was somewhat vague as to whether the FCC intended to address COLR issues in general, or simply those related to broadband. In Alaska we control designation of the COLR for local exchange and state purposes. Designation of a COLR for state services should not be preempted by the FCC as such preemption is not warranted, and would not be in the public interest.

⁹ Notice at 4(c).

RESPONSE to QUESTION 5(b): Should COLR obligations be removed or modified if any entity no longer is receiving universal service support?

States are in the best position to determine a broadband COLR and whether COLR status should be affected by universal service funding.

The Notice also asks whether “the broadband plan [should] recommend that COLR obligations be removed or modified if any entity no longer is receiving universal service support.”¹⁰ If a broadband COLR is designated, that designation should be made by the states. States are in the best position to know which carrier is best able to provide the COLR function in a specific area in light of the public need. States would also be in the best position to determine when a carrier serving an area may be relieved of its COLR obligations, including whether these obligations should be affected by receipt of universal service support.

RESPONSE to QUESTION 5(c): Should funded entities assume COLR obligations for broadband?

The Carrier of Last Resort function remains critical in rural and possibly other areas. A carrier that receives federal broadband funding should be required to meet specified service obligations to ensure the public need is adequately met and that public funds are appropriately spent.

The Notice asks whether there should be a broadband COLR, and what obligations should be attached to receipt of broadband universal service funding.¹¹ We note that in a state proceeding in Alaska,¹² commentors have

⁹ Notice at 5(a).

¹⁰ Notice at 5(b).

¹¹ Notice at 5(c).

¹² Docket R-08-03.

argued that simply naming a carrier a COLR is insufficient without defining what the term means. While we have yet to rule in our state proceeding, we nevertheless believe this concept is worth mentioning in this docket in regards to broadband services. As the FCC reviews whether a broadband COLR is needed, the FCC should consider what responsibilities come with broadband COLR status. At a minimum, we believe that any carrier that receives federal broadband funding should be required to meet specified service obligations to ensure the public need is adequately met and that public funds are appropriately spent.

RESPONSE to QUESTION 5(f) to (h): Should states be encouraged to permit carriers to satisfy COLR obligations through wireless, VoIP, or other technologies, and to what extent would this lead to cost savings?

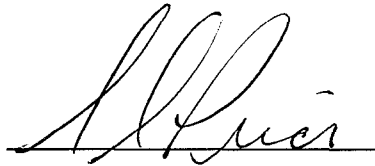
States should determine how carriers should satisfy their COLR obligations and what technologies are acceptable. Cost savings are not necessarily the most important consideration.

The FCC should not use federal universal service funding as a tool to encourage states to require or allow a specific COLR technology, whether that be VoIP or wireless technologies.¹³ While it is possible that a specific type of technology may be less expensive than another technology, service quality is an equally important concept. A lower cost technology may be incapable of meeting the public need or may be incapable of ubiquitous service. The type of technology best able to serve an area will depend upon the area served and

¹³ Notice at 5(f) and 5(g).

possibly other factors. Issues on this point are best resolved by the states.

RESPECTFULLY SUBMITTED this 7th day of December, 2009.

A handwritten signature in black ink, appearing to read "R. Pickett", written over a horizontal line.

Regulatory Commission of Alaska
Robert M. Pickett, Chairman

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